

REMARKS

The application includes claims 1, 2, 4-6, 8-12, 14-20, 22, 24-28, 30-34, 36, 37, and 39.

The Applicant amends claims 6, 10, 11, 16, 17, 20, 26, 27, and 30-32. No new matter is added.

The application remains with claims 1, 2, 4-6, 8-12, 14-20, 22, 24-28, 30-34, 36, 37, and 39 after entering this amendment

Summary of Telephonic Interview

Applicant's undersigned attorney spoke with Examiner Callahan on April 25, 2011 to discuss the Benoit reference (U.S. Patent Application Publication No. 2007/0043957). Examiner Callahan agreed that Benoit is not prior art under 35 U.S.C. § 103(a). Applicant thanks Examiner Callahan for his time and consideration.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejected claims 1, 2, 5, 6, 8-12, 14-16, 18-20, 22, 24-26, 28, 30-34, 36, 37, and 39 under 35 U.S.C. § 103(a) over Cowie *et al.* (U.S. Patent Application Publication No. 2003/0023865), Benoit *et al.* (U.S. Patent Application Publication No. 2007/0043957), and Pierre Richer: SANS/GIAC Practical Assignment for GSEC Certification Version 1.4b: Steganalysis: Detecting hidden information with computer forensic analysis, SANS Institute 2003.

The rejection is traversed at least for the reason that the Benoit reference is not prior art.

The subject application is a national stage entry of PCT/GB2004/04510 and claims priority to two applications filed in Great Britain on November 5, 2003 and June 10, 2004 (the Priority Dates).

Benoit was published on February 22, 2007, after the Priority Dates. Benoit is a national stage entry of PCT/EP2004/50437 filed on April 2, 2004. PCT/EP2004/50437 was published on October 21, 2004 in French, after the Priority Dates. PCT/EP2004/50437 claims priority to French application 0304628 which was published on October 15, 2004, in French, after the Priority Dates. Accordingly, Benoit and its related foreign and international applications were all published after the Priority Dates. Applicant respectfully submits that Benoit fails to qualify as prior art under both 35 U.S.C. 102(a) and 35 U.S.C. 102(b).

According to MPEP 2136.03 (II), the international filing date is a U.S. filing date for prior art purposes under 35 U.S.C. 102(e) if the international application meets the following three conditions:

- (1) an international filing date on or after November 29, 2000;
- (2) designated the United States; and
- (3) published under PCT Article 21(2) in English.

PCT/EP2004/50437 was published in French, not English, and fails to meet the three conditions identified in MPEP 2136.03 (II). Therefore, Applicant respectfully submits that the Examiner may not rely on the filing date of PCT/EP2004/50437 for purposes of making a prior art determination of Benoit with respect to the subject application. The §371 filing date for Benoit is June 14, 2006, which is after the Priority Dates. Accordingly, Benoit also fails to qualify as prior art 35 U.S.C. 102(e).

At least for the above reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1, 2, 5, 6, 8-12, 14-16, 18-20, 22, 24-26, 28, 30-34, 36, 37, and 39.

The Examiner rejected claim 4 under 35 U.S.C. § 103(a) over Cowie *et al.*, Atkinson (U.S. Patent 5,892,904), Pierre Richer, and Charbonneau (U.S. Patent No. 7,526,654).

As claim 4 depends directly or indirectly from independent claim 1, the comments and revisions directed above to claim 1 apply equally to claim 4. In addition, claim 4 recites further subject matter. Accordingly, reconsideration and withdrawal of the rejection of claim 4 is respectfully requested.

With the removal of Benoit as a reference and per the previous indication of allowable subject matter of claims 1, 2, 4-6, 8-12, 14-20, 22, 24-28, 30-34, 36, and 37 in view of the remaining references, as identified in the office action dated August 31, 2010, Applicant believes the application is in condition for allowance.

Claim Amendments – General Comments

Claims 6, 10, 11, 16, 17, 20, 26, 27, and 30-32 are amended for antecedent or grammatical purposes or to further clarify the claim language only to expedite prosecution, and without prejudice to pursuing the claims as previously presented or in other forms. The claim amendments are not being made to overcome any of the cited references, and Applicant neither intends nor believes that these amendments operate to narrow the scope of the claims.

CONCLUSION

For the foregoing reasons, the Applicant respectfully requests reconsideration and allowance of the present application. The Examiner is encouraged to telephone the undersigned at (503) 546-1812 if it appears that an interview would be helpful in advancing the case.

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Respectfully submitted,

STOLOWITZ FORD COWGER LLP

A handwritten signature in dark ink, reading "Bryan Kirkpatrick", written over a horizontal line.

Bryan D. Kirkpatrick

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